

**TENTATIVE RULINGS for CIVIL LAW and MOTION**  
**June 24, 2010**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941  
Department Eight: (530) 406-6942

## TENTATIVE RULING

**Case:** **Beesley v. K.H. Moss Co.**  
**Case No. CV CV 09-1189**

**Hearing Date:**           **June 24, 2010**                           **Department Eight**                           **8:30 a.m.**

**Plaintiffs’ motion to compel K.H. Moss Co. to provide further responses to request for production of documents, set no. one and for monetary sanctions:** The motion as to request nos. 2, 15, and 134 is **GRANTED** as follows. In his meet-and-confer letter, Plaintiffs’ counsel clarified that these requests seek a list containing the names or names, addresses, and telephone numbers of K.H. Moss Co. employees. It appears that the defendant created such list and served the list on Plaintiff’s counsel in March, 2010. Defendant shall serve a supplemental, verified response to request nos. 2, 15, and 134 stating its compliance with the request, as clarified by Mr. Schapiro’s meet-and-confer letter. (Code Civ. Proc., §§ 2031.210, subd. (a) and 2031.250.)

The motion as to request nos. 29, 30, 32, 34, and 61 is **GRANTED** as follows. Gail Thomas submitted a declaration stating that K.H. Moss Co. does not own any business other than the AAA Self Storage facility in Woodland, and there are no documents responsive to request nos. 29, 30, 32, 34, and 61. K.H. Moss Co. shall serve a verified, supplemental response to request nos. 29, 30, 32, 34, and 61 stating that no responsive documents exist. (Code Civ. Proc., §§ 2031.210, subd. (a) and 2031.250.)

The motion as to request no. 26 is **GRANTED**. Defendant failed to produce evidence supporting its claims of overbreadth and undue burden. *Calcor Space Facility, Inc. v. Superior Court of Orange County* (1997) 53 Cal.App.4th 216 is factually distinguishable.

K.H. Moss Co. shall serve verified supplemental responses to the above requests **by no later than July 1, 2010.**

The motion as to request nos. 11, 24, 33, 58, 59, 60, and 64 is **DENIED**. As for request nos. 58, 59, 60 and 64, the requests are overbroad and would require the disclosure of data protected by the right to privacy that bear no relationship to the issues in this lawsuit. Plaintiff has not shown that he is entitled to all of the data contained in the requested laptops, computers, thumb drives and discs. Plaintiff has not attempted to narrow the scope of his requests. Further, plaintiff has not shown that the electronic devices sought to be produced will be inspected in a manner to ensure that stored data will not be destroyed or altered by improper handling. (Code Civ. Proc., § 2031.030, subd. (c)(4).) Before any other motions relating to the discovery of electronic data is brought, the parties must meet and confer, as required under California Rules of Court, rule 3.724. If another motion to compel is brought based on a narrower request and the plaintiff demonstrates good cause for such request, the plaintiff must submit a declaration describing the parties' meet-and-confer efforts relating to the topics described in California Rules of Court, rule 3.724(8), and the defendant must submit evidence to establish its objections to the production of the electronic data sought. (Code Civ. Proc., § 2031.300, subd. (d); *Kirkland v. Superior Court of Los Angeles County* (2002) 95 CA4th 92, 98.)

The motion as to request no. 8 is **GRANTED** as follows. The Court finds that the information sought in this request is directly relevant to the plaintiffs' unfair competition and wage and hour causes of action. There is no contention that plaintiffs can obtain the requested information from an alternate source. However, to protect the privacy rights of third parties, the Court adopts the procedure used in *Pioneer Electronics (USA), Inc. v. Superior Court of Los Angeles County* (2007) 40 Cal.4<sup>th</sup> 360.

Because plaintiffs have not established good cause for the disclosure of the social security numbers of other employees, K.H. Moss Co. shall redact the social security numbers of employees, except for Brian Beesley and Denise Levandoski. Additionally, request no. 8 is limited to the period January 1, 2005, through the present and shall exclude records for Gail Thomas and Kelvin Moss.

Counsel are directed to meet and confer about the language for a notice to current and former K.H. Moss Co. employees. Defense counsel shall submit a letter brief to the Court, with a copy to opposing counsel, **by no later than July 1, 2010**, concerning the proposed language for such notice. The notice should set a deadline for employees to notify defense counsel of their objection to disclosure and the grounds for such objection. If plaintiffs object to the proposed language for the notice to employees, plaintiffs' counsel must submit proposed language to the Court, with a copy to opposing counsel, **by July 8, 2010**. A further hearing is set for Thursday, July 22, 2010, at 3:30 p.m. in Department Eight for the purpose of a ruling on the language of the notice to employees.

K.H. Moss Co. shall serve documents responsive to request no. 8, with the limitations provided herein, as to all non-objecting employees within ten (10) calendar days of the deadline for employees to submit objections.

K.H. Moss Co. shall set a hearing for the purpose of a ruling on objections from employees.  
K.H. Moss Co. shall submit under seal for the Court's *in camera* review a copy of all objections

from employees. Ten (10) court days before the hearing, K.H. Moss Co. may file a supplemental brief in support of the objections. Plaintiffs may file a response to K.H. Moss Co.'s supplemental brief no later than five (5) court days before the hearing.

The cross motions for monetary sanctions are **DENIED**.

**Hearing date for the defendants' motion for summary judgment or, in the alternative, summary adjudication**: Counsel are directed to appear. The May 13, 2010, order asked the parties to propose a continued hearing date for the defendants' summary judgment/adjudication motion. The parties failed to do so. Counsel shall meet and confer about a continued hearing date prior to the hearing.

**TENTATIVE RULING**

**Case:** Nunez v. US Bank Home Mortgage, et al.

**Case No.** CV CV 10-906

**Hearing Date:** June 24, 2010 Department Fifteen 9:00 a.m.

Defendants' request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Defendants' objections to Plaintiff's evidence numbers 1 and 3 are **SUSTAINED**. Defendants' objection number 2 is **OVERRULED**. (Evid. Code, §§ 403, 702, 1200 & 1523.)

Having considered all admissible evidence, argument, pleadings, and the applicable law, the Court **HEREBY FINDS AND ORDERS**:

The preliminary injunction shall **ISSUE** as follows:

Defendants, and their officers, agents, employees, representatives, assignees, or any other persons acting with defendants or in their behalf, are enjoined and restrained from:

- (1) Selling certain real property, located at 29 Nevada Avenue, Woodland, California, in Yolo County, pursuant to Trustee's Sale;
- (2) Claiming ownership of the property if no bidders successfully purchase the property pursuant to Trustee's Sale.
- (3) Plaintiffs must file an undertaking in the amount of \$\_\_\_\_\_.

The parties are **DIRECTED TO APPEAR** to advise the Court as to the amount of undertaking required to protect the beneficiary against otherwise uncompensated losses resulting from delay in enforcement of the deed of trust.

**TENTATIVE RULING**

**Case:** **Torres v. Benevolent and Protective Order of Elks Lodge No. 1299**  
**Case No. CV CV 08-3084**

**Hearing Date:** **June 24, 2010** **Department Fifteen** **9:00 a.m.**

This matter is **CONTINUED** on the Court's own motion to Thursday, July 22, 2010, at 9:00 a.m. in Department Fifteen.

Plaintiff may file, by no later than July 1, 2010, a response to the declarations the defendant filed on June 17 and 21, 2010. By no later than July 8, 2010, the defendant may file a response to the plaintiff's supplemental papers, if any.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:** **Wells Fargo Bank, N.A. v. Arriaga**  
**Case No. CV UD 09-3377**

**Hearing Date:** **June 24, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff's motion to set aside the default judgment by court entered on May 6, 2010, is **GRANTED**. (Code Civ. Proc., § 473.) Pursuant to plaintiff's request filed on June 18, 2010, the entire case is **DISMISSED WITH PREJUDICE**.

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff is to serve a copy of the order on Defendants at their new address by July 2, 2010.